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513	7590	03/14/2006	EXAMINER	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/936,518
Filing Date: November 15, 2001
Appellant(s): GASSER, INGO

W. Douglas Hahm
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 06, 2005 appealing from the Office action mailed November 16, 2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

It is noted that in the Evidence Appendix of the above-noted Appeal Brief, appellant enclosed therewith drawing figures A-C, which were submitted with the Request for Reconsideration filed on 2/15/2005 for consideration by the examiner. However, said Request for Reconsideration was denied entry in the Advisory Action mailed on 3/29/2005, thus said drawing figures A-C are not of record, and the statement in the Evidence Appendix is not corrected.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

(A) Claims 18, 21-29, 31-40 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Great Britain 2,245,158 to Tamura (which is the same as US Patent counterpart 5,135,294) in view of USP 4,445,726 to Rock et al.

Tamura discloses a pull-out guide fitting for a drawer comprising all the elements recited in the above listed claims including a drawer track 7, a support track 3, rolling elements arranged between the tracks, a dampening device including a rotary damper component, a stop 22, a coupling attachment for coupling the drawer track and the support track 3, a control component, a rack having a toothed rack profile 5, a pinion for engaging the rack, a compression spring 20, a fluid damping device including a damping fluid medium a. The differences being that Tamura does not disclose a center

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track arranged between the drawer track and the support track, the dampening device being mounted on any one of the tracks, to dampen relative motion of “only” two tracks or all three tracks, and the stop being mounted on any one of the tracks.

Rock et al teaches the idea of providing a pull-out guide fitting for a drawer comprising a drawer track attached to a drawer, a support track attached to a body sidewall, a center track arranged between the drawer track and the support track, rolling elements arranged between the drawer track, the center track, and the support track for the motivation of in order to allow the drawer to be pulled out of the body of a piece of furniture over its entire length and facilitate the reinsertion of the drawer into the body of the furniture. Therefore, it would have been obvious to modify the structure of Tamura by providing the pull-out guide fitting with a center track arranged between the drawer track and the support track, rolling elements arranged between the drawer track, the center track, and the support track in order to allow the drawer to be pulled out of the body of a piece of furniture over its entire length and facilitate the reinsertion of the drawer into the body of the furniture, as taught by Rock et al, since both teach alternate conventional pull-out guide fitting structure, used for the same intended purpose, thereby providing structure as claimed. In regard to the dampening device being mounted on any one of the tracks, to dampen relative motion of “only” two tracks or all three tracks, and the stop being mounted on any one of the tracks, it would have been obvious to rearrange the dampening device and the stop of Tamura, as modified, such that the dampening device and the stop being mounted to any one of the tracks as claimed, and to dampen relative motion of “only” two tracks or all three tracks, since it is

well within the level of one skill in the art to rearrange existing components from one location to another to achieve various combination of interaction between the components.

(B) Claims 19-20 and 30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tamura, as modified, as applied to claims 18 above, and further in view of EP 556,613 to Migliori.

Tamura, as modified, discloses all the elements as discussed above except for the dampening device comprises a hydraulic damping device a, a linear damping component including a cylinder and a piston.

Migliori discloses a rack and pinion pneumatic actuator with counter-pressure control and damping device in order to control the damping actions, in a controlled manner, in an extremely small space at the approaching end of each working stroke, allowing a low-down to stop and reverse the sliding movement of the rack and piston assemblies. Therefore, it would have been obvious to modify the structure of Tamura, as modified, by providing a rack and pinion pneumatic actuator with counter-pressure control and a linear damping component including a cylinder and a piston damping device in order to control the damping actions, in a controlled manner, in an extremely small space at the approaching end of each working stroke, allowing a low-down to stop and reverse the sliding movement of the rack and piston assemblies, as taught by Migliori, since both teach alternate conventional damping device, thereby providing structure as claimed.

(10) Response to Argument

In response to appellant's arguments on page 4, paragraphs # 1-3, that although both three-track pull-out guides, such as the type taught in the Rock reference, and damping mechanisms, such as the type taught in Tamura reference, are well known in the art, the combination of features arranged as recited in independent claim 18 is patentable over the prior art of record, the examiner takes the position, as stated in the above claimed rejection, Tamura, as modified by Rock, teaches all the elements recited in claim 18 and the purpose/motivation for modifying Tamura, in view of Rock, is "in order to allow the drawer to be pulled out of the body of a piece of furniture over its entire length and facilitate the reinsertion of the drawer into the body of the furniture." It is well known in the drawer guide art that a three-track pull-out guide would provide such advantages over a two-track guide. Further, in regard to the locations of the damping device relative to the tracks, since Tamura, as modified by Rock, teaches all the elements recited in the claim, it is well within the level of one skill in the drawer guide art to rearrange existing components, i.e., tracks and damping device, from one location to another to achieve various combination of interaction between the components for best result.

In response to appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in

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the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation is found in the knowledge generally available to one of ordinary skill in the art that a three-track pull-out guide allows a drawer to be pulled out of the body of a piece of furniture over its entire length and facilitate the reinsertion of the drawer into the body of the furniture.

In response to appellant's argument on page 6 that there is a lack of appreciation by the examiner for the advantages gained and difficulties involved in arranging the damping device as recited in the claim 18, the examiner takes the position that although the examiner fully appreciates appellant's invention, the examiner also believes that based on the prior art of record, it would have been obvious and well within the level of one skill in the art to modify Tamura, in view of Rock, to arrive at appellant's claimed invention. Rearranging, repositioning, resizing the same essential components are part of engineering processes.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Lanna Mai

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